

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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QUALITY GAS & MART,

Plaintiff/Counter-Defendant,

v.

Case No. 07-CV-13317

ZURICH AMERICAN INSURANCE  
COMPANY,

Defendant/Counter-Plaintiff.

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**OPINION AND ORDER GRANTING DEFENDANT’S “MOTION TO COMPEL . . . AND  
TO HAVE REQUESTS FOR ADMISSION DEEMED ADMITTED”**

Pending before the court is Defendant/Counter-Plaintiff Zurich American Insurance Company’s (“Zurich’s”) November 2, 2007 “Motion to Compel . . . and to Have Requests for Admission Deemed Admitted.” For the reasons stated below, the court will grant Zurich’s motion.

On September 17, 2007, Zurich served upon Plaintiff/Counter-Defendant Quality Gas & Mart (“Quality”) its (1) interrogatories, (2) requests for production of documents and (3) requests for admission. (Zurich’s Mot. at ¶ 1.) On October 25, 2007, after not receiving a response to any of the aforementioned discovery requests, Zurich’s counsel wrote Quality’s counsel a letter indicating that the responses were overdue and requesting that Quality provide the responses by November 1, 2007, or Zurich would be filing a motion to compel. (*Id.* at ¶ 3.) To date, Quality has neither responded to the letter nor provided the requested discovery. (*Id.* at ¶ 7.) Additionally, the time for filing a response to Zurich’s motion to compel has lapsed and Quality has not responded.

Pursuant to Federal Rules of Civil Procedure 33(b)(3) and 34(b), answers to interrogatories and responses to production requests are due within thirty days of service of such requests. Quality did not provide Zurich with responses within thirty days of being served, and therefore is in violation of the rules. Accordingly, the court will grant Zurich's motion to compel. Further, in light of Quality's noncompliance, and in the absence of good cause for its noncompliance, the court finds that Zurich is entitled to an award of costs and attorneys' fees associated with preparing and filing its motion to compel.<sup>1</sup>

Additionally, Federal Rule of Civil Procedure 36(a) provides that a request for admission that is not answered or objected to within thirty days of service of the request is deemed admitted. Because Quality did not respond to Zurich's requests for admission within thirty days of service, those requests are deemed admitted. Accordingly,

IT IS ORDERED that Zurich's "Motion to Compel . . . and to Have Requests for Admission Deemed Admitted" [Dkt. # 9] is GRANTED. Quality is DIRECTED to provide complete answers to Zurich's interrogatories and to produce the requested documents by **December 10, 2007**.

IT IS FURTHER ORDERED that Quality shall pay Zurich's costs and attorneys' fees incurred in preparing and filing Zurich's motion to compel. If the parties are unable to file a stipulation regarding attorneys' fees and costs, Zurich shall submit an affidavit

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<sup>1</sup>Plaintiff is cautioned that a continued failure to respond to discovery requests or to pleadings places it in jeopardy of facing a dismissal for failure to prosecute, pursuant to Eastern District of Michigan Local Rule 41.2.

and detailed supporting documentation evidencing such reasonable attorneys' fees and costs on or before **December 10, 2007**. Quality may file objections, if any, on or before **December 17, 2007**.

IT IS FURTHER ORDERED that Zurich's September 17, 2007 requests for admissions are DEEMED ADMITTED, pursuant to Fed. R. Civ. P. 36(a).

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: November 30, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 30, 2007, by electronic and/or ordinary mail.

s/Lisa G. Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522